IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 6938 of 1995

Between:

Pakki Pradeep Kumar S/o Kesava Rao
Visakhapatnam Port Trust R/o D.No.12/24
Gajapathi Nagar Colony Narasimhanagar,Visakhapatnam - 530 024

..... PETITIONER

AND

1 Visakhapatnam Port Trust Represented by its Chairman
Visakhapatnam - 530 035
2 Visakhapatnam Port Trust Represented by its Traffic Manager
Visakhapatnam - 530 035
3 Karoti Appa Rao
Traffic Department Visakhapatnam Port Trust
Visakhapatnam - 530 035
4 Kandregula Appa Rao
Traffic Department Visakhapatnam Port Trust
Visakhapatnam - 530 035
5 Kaki Sanyasi Rao
Visakhapatnam Port Trust Visakhapatnam - 530 035

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus directing the Respondents 1 and 2 herein to strict observance of Rules and Regulations in accordance with the Visakhapatnam Port Trust Employees (Recruitment, Seniority and Promotion) Rules and Recruitment Rules made under to the post and grade of Assistant Yard Master and Posts beyond that grade and consequently declare the action of the Respondents 1 and 2 in promoting the

Respondents 3 to 5 without following the above stated Rules as illegal, arbitrary, without jurisdiction, violative of Articles 14 and 16 of the Constitution of India, violation of Principles of natural justice, null and void, and further direct the respondents 1 and 2 to restore the seniority of the petitioner over and above the Respondents 3 to 5.

Counsel for the. Petitioner: P.Pradeep Kumar, PARTY-IN-PERSON

Counsel for the Respondents 1 & 2: MR.K.SRINIVASAMURTHY, SC FOR VPT

The Court made the following:

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO. 6938 of 1995

ORDER:

This writ petition is filed by the employee of the Visakhapatnam Port Trust, seeking a writ of mandamus, directing the respondents 1 and 2 to resort to strict observance of rules and regulations in accordance with the Visakhapatnam Port Trust Employees (Recruitment, Seniority and Promotion) Rules and Recruitment Rules made under to the post and grade of Assistant Yard Master and posts beyond that grade and consequently declare that the action of the respondents 1 and 2 in promoting the respondents 3 to 5 as illegal, arbitrary and without jurisdiction and in violation of Articles 14 and 16 of the Constitution of India.

2. Petitioner was appointed as a Clerk (Trains) on 12-06-1968 in the employment of respondents 1 and 2 organization. It is a Class-III post. His academic qualification is P.U.C. Later he was selected to the post of Yard Foreman on 01-10-1975.

3. Third respondent joined in the organization of respondents 1 and 2 as Railway Khalasi which is a Class IV Post and got promotion as Clerk (Trains) in December 1969, which is a Class III post and he was further promoted to the post of Yard Foreman in May, 1978. Subsequently, in September 1988, he was selected to the post of Assistant Yard Master

and again he was further promoted to the post of Yard Master/Area Controller in June, 1994. Fourth respondent joined in the organization of the respondents1 and 2 as Clerk (Trains) on 25-07-1971, which is a Class III post and got promotion as Yard Foreman in November 1980. Subsequently, in May 1989, he was selected to the post of Assistant Yard Master and again he was further promoted to the post of Yard Master/Area Controller in June 1994. Fifth respondent joined in the organization of respondents1 and 2 as Clerk (Trains) on 25-05-1971, which is a Class III post and got promotion as Yard Foreman in November, 1980. Subsequently, in September, 1988, he was selected to the post of Assistant Yard Master.

4. It is the case of the petitioner that the Management overlooked him while giving promotions to respondents 3 and 4 in respect of last two promotions and also to respondent No.5 in respect of last promotion though they are juniors to him.

5. Petitioner is contending that respondents 1 and 2 did not follow the procedure prescribed under the Recruitment Rules and made appointments irregularly without considering the seniority of the petitioner. Petitioner also requested the Court to restore his seniority over and above the respondents 3 to 5. As per Item No.67 of the Recruitment Rules, quota has been provided to the employees from Chief Shunting Master/Senior Shunting Traffic Jamadar/Shunting Traffic Jamadar (for brevity 'STJM') to an extent of 33 1/3% quota and the employees from the Clerk (Train) are eligible up to the maximum of 66 2/3% quota. The petitioner belongs to the Clerk (Train) category whereas the respondents are the employees from STJM category. Their source of recruitment is different and their quota is earmarked for the purpose of recruitment or promotion. Therefore, the contention of the petitioner is that though the respondents 3 to 5 are juniors to them, they were considered for promotion for the reason that they were promoted from the category of STJM within the quota prescribed for them for the purpose of recruitment.

6. It is the contention of the petitioner that the respondents 1 and 2

did not follow the Recruitment Rules and made appointments as per their own accord. Respondents 1 and 2 denied the said allegation in their counter and gave the details of the recruitments made and the number of candidates allotted in each category.

7. Though the petitioner raised a contention that the Recruitment Rules have not been followed by respondents 1 and 2, it is only an omnibus allegation since petitioner could not show any concrete example as to where the respondents 1 and 2 violated the procedure prescribed under the Recruitment Rules. Therefore, I do not find any force in the said contention of the petitioner that the respondents 1 and 2 failed to follow the procedure prescribed under the Recruitment Rules.

8. Petitioner's further contention that they shall be kept above the respondents 3 to 5 in seniority, it also cannot be considered unless they establish that they are entitled to get promotion earlier to the respondents3 to 5 in their respective category according to seniority quota. Since the sources of recruitments are different through a fixed quota and when there is no scope for the petitioner to get recruited in their channel of recruitment, petitioner cannot claim that they are entitled to be placed above the respondents 3 to 5 and also they cannot blame the respondents 1 and 2 for not considering their cases before promoting the respondents 3 to 5.

9. In the light of the above circumstances, I do not find any merits in the writ petition.

10. The writ petition is accordingly dismissed. No order as to costs.

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September 7,2004

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ASSISTANT REGISTRAR

September 7, 2004.

Kvr

// True Copy //

Section Officer

To

1 Chairman, Visakhapatnam Port Trust,
Visakhapatnam-35
2 Traffic Manager, Visakhapatnam Port Trust,
Visakhapatnam-35
3 Two C.D. Copies.